IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

THE HON'BLE MR JUSTICE D.S.R.VARMA

and

THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 711 of 2004

Between:

Banjara Yuvajana Sangham (TRegd.No.2484/1990), Regd. under the A.P. (Telangana Area) Public Societies Regd. Act, Having its office at H.No.1-17-382/103/2, Vinay Nagar, Saidabad, Hyderabad, Rep. by its General Secretary, R.Sankar Naik.

..... APPELLANT

AND

1.The Collector & District Magistrate, Hyderabad, Nampally

Station Road, Hyderabad.
2.The Commissioner, Land Revenue (ULC), Government of

Andhra Pradesh, Nampally, Hyderabad.
3.The Revenue Divisional Officer, Collector's Office, Nampally,

Hyderabad.
4.The Mandal Revenue Officer, Saidabad Mandal, Musarambagh,

Malakpet, Hyderabad.
5.The Commissioner of Police, Basheerbagh, Hyderabad.
6.The Station House Officer, Saidabad Police Station, Hdyerabad.
7.Rashtra Dalits Seva Sangham (Regd.No.587/1994), Having its

Office at Hut No.17-1-391/SC/1, Dr.A.P.J.Abdul Kalam
Nagar, Hyderabad, Rep. by its President, Sri.Muthyala Babu.
8.Roudri Cooperative Housing Society Ltd., MS 12, Malakpet

Colony, Hyderabad, Rep. by its Secretary, R.Malakondaiah.
9.Industries Department Employees House Building Coop.

Society Ltd., Industries Colony, Saidabad, Hyderabad, Rep. by

its President, A.P.Reddy.

.....RESPONDENTS

Whereas the appellant above named through his Advocate Mr.K R Prabhakar, preferred the above Writ Appeal under Clause 15 of the Letters Patent against the Order dated 25/03/2004 in WP No. 9423 OF 2003 on the file of the High Court.

Counsel for the Appellant: MR. S Ramachander Rao and

Mr.K.R.PRABHAKAR

Counsel for the Respondent Nos.1 TO 6: GP FOR ASSIGNMENT

Counsel for the Respondent No.7: Mr.B.V.Bakshi

Counsel for the Respondent No.8: Sri E Manohar for Mr.MV S Sureshkumar

Counsel for the Respondent No.9: Sri Prasad Rao, Vemulapalli

The Court made the following:

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ORDER: (Per Bilal Nazki, J)

Heard both the parties in detail. This case has come up before us by virtue of an order of reference made by a Division Bench of this Court on in W.A.No. 711 of 2004.

The appellant-society filed the appeal against the judgment in W.P.No.9423 of 2003. The Writ Petition was filed by the appellant/writ petitioner seeking allotment of land in their favour on the ground that the members of the petitioner-society belong to weaker sections of society and are homeless persons. They belong to Scheduled Caste, Scheduled Tribe, Backward Classes and Minorities. During the course of hearing, it was noted that the land continued to be the subject matter of proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act). On one hand, the writ petitioner was claiming allotment of the land on the ground that its members were belonging to the weaker sections of the society. On the other hand, respondents 8 and 9, who claimed to be the agreement-holders of the original owner, were claiming rights in the property. The learned single Judge has noted and has also been noted by the Division Bench in the reference order that after initiating the proceedings under the Act, the proceedings had culminated into passing an order under Section 10 (5) of the Act and thereafter, an appeal had been preferred before the competent authority. The competent authority has passed an order in the year 1982 setting aside the proceedings and remanding the matter back to the original authority. So the proceedings under the Act have not ended so far and it is admitted position of the parties that the proceedings are pending by virtue of remand order before the original authority even as on today. The Government could deal with the property in question, only if the property had vested in it. The property would vest in the Government only after the proceedings under the Act had culminated in the final orders being passed under Section 10(5) of the Act. Therefore, the learned Single Judge was right that the Government cannot be ordered to consider the representations of allotment in favour of the petitioner of the

land which, as on today, does not belong to the Government.

Mr. Sri S Ramachander Rao, learned senior counsel for the appellant-writ petitioner has, however, drawn our attention to the G.O.Ms.No.457, dated 24.03.2003 and submits that an application being W.P.M.P.No.2701 of 2004 in WP No.9423 of 2003 was moved before the learned Single Judge seeking amendment of the writ petition and in that application this G.O. was also called into question, but the learned Single Judge had not gone into this question at all.

Mr. E. Manohar, learned senior counsel, on the other hand, submits that there had been no challenge to the G.O. either at the stage of filing of the Writ Petition or at the time of filing of the appeal. This G.O. confers certain rights on respondent No.8 over certain property. We have gone through this G.O. and we have no doubt in our mind that this G.O. does not create any rights on anybody as it purports to distribute the land, which is not at present owned by the Government at all. The Government did not own the land even on the date the G.O. was passed. Therefore, this G.O. should not come in the way of anybody while deciding rights of the parties with respect to the disputed land. The Division Bench, which referred the matter to this Court, has also observed that the earlier judgment of the Division Bench in W.P.No.7323 of 2003 needs re-consideration. We have gone through the Judgment. That judgment also proceeds on the ground that the Government has the power to deal with the land, which is vested in it in pursuance of the proceedings under the Act and, in our view, in these proceedings it is not necessary for us to go into the correctness of the view expressed in that Judgment. The parties have essentially a dispute with regard to possession of the land. The judgment in W.P. No. 7323 of 2003 is not at all relevant for the purposes of present controversy.

Mr. E. Manohar, learned senior counsel submits that after obtaining the orders of status-quo from the Court, the petitioner tried to encroach upon the land and got possession over the entire land and constructed even some structures. The petitioner has also filed a contempt case contending that the respondents violated the orders of the *status quo*. Other side also makes similar allegations. We understand that a Commissioner had also been appointed. But we do not think that such questions are required to be decided by the Full Bench of this Court. Let the Contempt cases be placed before the Division Bench for disposal under Law.

The Writ Appeal is disposed of in terms of the directions given above and upholding

the order of the learned single Judge. Any observations made in this order while disposing of this Writ Appeal shall not be taken as an expression of opinion over the matter of possession in respect of the property by the respective parties, which may have to be decided by the Division Bench while hearing contempt matters.

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(BILAL NAZKI,J)

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(D.S.R. VARMA, J)

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(S.ANANDA REDDY, J)

25th AUGUST 2004

BSS

To

1.The Collector & District Magistrate, Hyderabad, Nampally

Station Road, Hyderabad.
2.The Commissioner, Land Revenue (ULC), Government of

Andhra Pradesh, Nampally, Hyderabad.
3.The Revenue Divisional Officer, Collector's Office, Nampally,

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Malakpet, Hyderabad.
5.The Commissioner of Police, Basheerbagh, Hyderabad.
6.The Station House Officer, Saidabad Police Station, Hdyerabad.

7.2 CCs to G.P. for Assignment, High Court Buildings,

Hyderabasd (OUT)

8.2 CD copies